

## Message Text

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ORIGIN EB-07

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DRAFTED BY EB/ORF/FSE:GRRASE:KG

APPROVED BY EB/ORF/FSE:RMARTIN

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R 111312Z AUG 76

FM SECSTATE WASHDC

TO AMEMBASSY BUENOS AIRES

C O N F I D E N T I A L STATE 199055

E.O. 11652: GDS

TAGS: ENRG

SUBJECT: REVISION OF IRS RULING ON PRODUCTION SHARING  
CONTRACTS

REF: BUENOS AIRES 5180

1. ON MAY 7, 1976 THE IRS ISSUED REVENUE RULING 76-215 WHICH REVISED AN EARLIER POSITION ON THE US TAXATION OF PRODUCTION SHARING CONTRACTS. UNDER THE OLD RULING THE HOST COUNTRY'S SHARE OF PRODUCT UNDER THESE CONTRACTS HAD BEEN CONSIDERED A TAX ON THE US FIRM, AND AS SUCH WAS ALLOWED AS A CREDIT AGAINST THE COMPANY'S US TAXES. IN THE FUTURE, AS PER THE REVISED RULING, THE HOST COUNTRY'S SHARE OF PRODUCTION WILL BE CONSIDERED A ROYALTY, AND AS SUCH AN ADJUSTMENT TO INCOME. BECAUSE OF THE TAX RATE ON CORPORATIONS THIS RULING WILL EFFECTIVELY DOUBLE THE PRODUCING COMPANIES' TAX BURDEN.

2. THIS RULING WAS FELT FIRST IN INDONESIA. THE GOI PIONEERED THE PRODUCTION SHARING CONCEPT AND SEVERAL COMPANIES HAVE BEEN WORKING UNDER THESE CONTRACTS IN INDONESIA SINCE THE MID-1960'S. THE CONCEPT HAS  
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WORKED QUITE WELL IN INDONESIA AND SEVERAL OTHER

COUNTRIES EITHER HAVE NOW OR ARE CONSIDERING ADOPTION  
OF PRODUCTION SHARING CONTRACTS FOR THE EXPLORATION

AND DEVELOPMENT OF THEIR NATURAL RESOURCES. AMONG  
THESE ARE BOLIVIA, PERU, GUATAMALA, INDIA, EGYPT,  
GREECE, LIBYA, BURMA, BANGLADESH, MALAYSIA, SYRIA  
AND THE COMMONWEALTH OF PUERTO RICO AS WELL AS ARGENTINA.

3. IT SHOULD BE NOTED THAT THERE DOES NOT APPEAR TO  
BE ANY MASS EXODUS FROM THESE COUNTRIES. EVEN IN  
INDONESIA THE COMPANIES ARE TALKING ABOUT REDUCED IN-  
VESTMENT RATHER THAN A PULL-OUT. (MOREOVER THE TALK  
ABOUT REDUCED INVESTMENT IS IN RESPONSE TO THE RECENT  
INDONESIAN ACTIONS TO INCREASE ITS TAKE.)

4. IT IS UNCLEAR HOW THIS NEW IRS RULING WILL AFFECT  
US COMPANIES' COMPETITIVE POSITION VIS-A-VIS FIRMS OF  
OTHER COUNTRIES. HOWEVER, AMOCO APPEARS TO BE PULLING  
OUT OF AREAS WHICH IT CONSIDERS MARGINAL ECONOMIC  
PROSPECTS. MOST RECENTLY IT HAS INDICATED THAT IT MAY  
NOT SIGN A PLANNED EXPLORATION AGREEMENT WITH SYRIA.  
AMOCO CITED THE IR RULING AS A MAJOR FACTOR IN ITS  
DELIBERATIONS. ROBINSON

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## Message Attributes

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